

REMARKS

The applicants thank the Examiner for his consideration of the application. Claims 1-24 are pending in the application. The applicant has amended claims 1, 5, 17 and 21-24 to clarify that tasks are performed by a human subject.

35 U.S.C. § 102

The Examiner rejected claims 1-18 and 20 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,347,018 issued to Kadlec et al. ("Kadlec").

Independent claim 1, as amended, is directed to a system for detecting a screening-test error which includes a measurement device that measures at least one performance parameter related to at least one screening-test task performed by a human subject. Independent claim 5, as amended, is directed to a method for detecting a screening-test error that includes measuring at least one performance parameter related to at least one screening-test task performed by a human subject. Independent claim 17, as amended, is directed to a method for detecting errors in balance related screening tests which includes measuring a quantity related to a stability factor of a balance task performed in trials by a human subject under a plurality of distinct sensory conditions. Kadlec does not disclose, teach or suggest such systems or methods.

Kadlec is directed to a digital servo control system for use in disk drives. In accordance with Kadlec, In accordance with Kadlec, a digital servo control system for disk drives is an "embedded" system; one in which servo control information is embedded on the same disk surface as the user data. The system provides only a single dibit pair in a fractional positional error (PES.sub.F) area. Various pre-processing methods may be provided so as to pre-process the measurement derived from the single dibit pair per sample period (or data sector), so as to compensate for non-ideal characteristics of the dibit measurement. (Abstract). Kadlec is concerned with accurately maintaining the position of read/write heads over a given track on a recording medium (a disk driver) (col. 8, lines 47-57). Kadlec is not remotely concerned with screening test tasks or balance tasks performed by a human subject. Consequently, Kadlec does not anticipate claims 1, 5 or 17, as amended.

Similarly, Kadlec does not render the subject matter of claims 1, 5 or 17 (as amended) obvious. Further, Kadlec is not analogous art with respect to the subject matter of amended claims 1, 5 or 17. In accordance with the Manual of Patent Examining Procedure:

In order to rely on a reference as a basis for rejection of an applicant's invention, the reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the inventor was concerned." *In re Oetiker*, 977 F.2d 1443, 1446, 24 USPQ2d 1443, 1445 (Fed. Cir. 1992). See also *In re Deminski*, 796 F.2d 436, 230 USPQ 313 (Fed. Cir. 1986); *In re Clay*, 966 F.2d 656, 659, 23 USPQ2d 1058, 1060-61 (Fed. Cir. 1992) ("A reference is reasonably pertinent if, even though it may be in a different field from that of the inventor's endeavor, it is one which, because of the matter with which it deals, logically would have commended itself to an inventor's attention in considering his problem."); * *Wang Laboratories Inc. v. Toshiba Corp.*, 993 F.2d 858, 26 USPQ2d 1767 (Fed. Cir. 1993)>; and *State Contracting & Eng'g Corp. v. Condotte America, Inc.*, 346 F.3d 1057, 1069, 68 USPQ2d 1481, 1490 (Fed. Cir. 2003) (where the general scope of a reference is outside the pertinent field of endeavor, the reference may be considered analogous art if subject matter disclosed therein is relevant to the particular problem with which the inventor is involved). MPEP § 2141.01(a).

The applicant respectfully submits that Kadlec is not relevant to detecting screening test errors associated with screening test tasks performed by a human subject or detecting errors in balance related screening tests associated with balance tasks performed by a human subject.

Since Kadlec does not disclose, teach or suggest systems or methods related to screening-test tasks or balance tasks performed by a human subject, claims 1, 5, and 17 are not anticipated or rendered obvious by Kadlec. Claim 2 depends from amended claim 1 and contains the limitations of amended claim 1, claims 6-16 depend from amended claim 5 and contain the limitations of amended claim 5, and claims 18-20 depend from claim 17 and contain the limitations of amended claim 17. Consequently, claims 2, 6-16 and 18-20 are also not anticipated or rendered obvious by Kadlec.

Independent claim 3 is directed to a system for detecting errors in balance related screening tests which includes a force-plate for measuring a quantity related to a stability factor of a balance task performed in trials by a subject under a plurality of distinct sensory conditions. In accordance with the present application "the force-plate measures variables of force related to an individual's performance during prescribed seated, standing, and walking assessment and exercise training tasks (page 16, lines 7-9). Kadlec does not disclose, teach, or suggest a system which includes a force plate capable of measuring variables of force related to an individual's performance during prescribed seated, standing and walking assessment and exercise training

tasks. Consequently, claim 3 (and claim 4 which depends from claim 3 and contains its limitations) is not anticipated or rendered obvious by Kadlec.

35 U.S.C. §103

The Examiner rejected claims 21-24 under 35 U.S.C. §103(a) as being unpatentable over Kadlec. The applicant has amended claim 21 to clarify that the sway deviation is associated with a balance task performed by a human subject. The applicant has amended claims 22 and 23 to clarify that a vertical force is measured by a device during performance of a screening test task performed by a human subject. The applicant has amended claim 24 to clarify that a horizontal force is measured by a device during performance of a screening test task performed by a human subject. As stated above, Kadlec is concerned with accurately maintaining the position of read/write heads over a given track on a recording medium (a disk driver). Kadlec is not concerned with, nor does Kadlec disclose, teach or suggest methods for detecting screening test errors associated with tasks performed by a human subject. Consequently, claims 21-24, as amended, are not rendered obvious by Kadlec.

Further, in light of the amendments made to claims 21-24, Kadlec is not analogous art with respect to the subject matter of amended claims 21-24 for the reasons stated above with respect to claims 1, 5 and 17. Again, the applicant respectfully submits that Kadlec is not relevant to detecting screening test errors associated with tasks performed by a human subject.

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CONCLUSION

The applicant believes that no fees are due at this time. If any fees are required for the timely consideration of this application, please charge deposit account number 19-4972. All the claim rejections have been addressed and all of the pending claims are allowable for the reasons stated and others. Reconsideration of the application and issuance of a notice of allowance are respectfully requested.

Respectfully submitted,

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